

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

WILLIAM A. DePARDO,
Plaintiff

v.

**MFS/SUN LIFE FINANCIAL
DISTRIBUTORS, INC. d/b/a
SUN LIFE OF CANADA and
TAC WORLDWIDE
COMPANIES,**

Defendants

CIVIL ACTION NO.: 04-0248DPW

**PLAINTIFF'S STATEMENT OF UNDISPUTED FACTS IN
OPPOSITION TO THE MOTION OF TAC
WORLDWIDE COMPANIES FOR SUMMARY JUDGMENT**

In opposition to the motion for summary judgment of TAC Worldwide Companies ("TAC") and under Local Rule 56.1, the plaintiff, William DePardo, submits the following concise statement of material facts within the Administrative Record as to which there is no genuine issue to be tried. The plaintiff will follow the format used by the defendants in citing pages of the Administrative Record as "AR-0XXX."

A. SHORT-TERM DISABILITY

The plaintiff specifically adopts or admits to the uncontested facts and references to the Administrative Record set forth in Paragraphs 19 through 25 of TAC's Statement of Material Facts.

1. Mr. DePardo stopped working for TAC Worldwide Companies on December 14, 2001. (AR-0274).

2. His pay stub for the period ending December 22, 2001 indicated that \$11.50 was deducted from his paycheck to pay a long-term disability insurance premium. (AR-0297).
3. The weekly employee cost of LTD was \$11.50 for employees earning more than \$200,000 per year. (AR-0295, AR- 0311).
4. The \$12,000 per month that Mr. DePardo received above his base pay was a commission payment, despite its characterization on his pay stub as a bonus. (AR-0293, AR-0294). Without the monthly commission of \$12,000, his annual salary would not have exceeded \$200,000.
5. The Rockingham County (NH) Superior Court determined that TAC Worldwide Companies owed Mr. DePardo a \$12,000 commission for the November/December 2001 pay period because TAC failed to notify Mr. Depardo in writing of the reduction in pay. (AR-0406). As a result of the court's decision, Mr. DePardo still received a \$12,000 monthly commission at the time of his retirement because of disability. (AR-0406).

The Plaintiff, William A. DePardo,

By his Attorneys,

/s/ Nicholas S. Guerrero
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CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail pursuant to Fed. R. Civ. P. 5(a).

Dated: November 2, 2004

/s/ Nicholas S. Guerrero
Nicholas S. Guerrero